

CRIMINAL JUSTICE INTERVENTIONS TO REDUCE THE NUMBER OF  
SUICIDES AND MENTALLY ILL INDIVIDUALS IN CALIFORNIA JAILS

by  
Grace Liu

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## **Abstract**

California's jails and prisons have become the state's mental health facilities and people are dying. While more mentally ill individuals are being sent to jail, the system is ill equipped to effectively treat this vulnerable population which is leading to deaths and financial stress in the form of lawsuits. When mentally ill offenders are not given the treatment they need while incarcerated and return to the community, this continues the cycle of new arrests, new victims, and more tax dollars being spent on repeatedly incarcerating these individuals. What they really need is treatment, not incarceration.

This capstone proposes addressing this problem through the Criminal Justice Interventions for Mentally Ill Individuals (CJIMII) policy. The goals are to reduce the number of people with mental illnesses in jails by 24% by 2025 and reduce the number of deaths in jails by 50% by 2025. The CJIMII policy aims to divert mentally ill individuals from jail by expanding mental health courts throughout the state for defendants charged with nonviolent offenses. Violent offenses should be referred on a case-by-case basis. Another diversion element of the CJIMII policy is to expand the law enforcement – mental health practitioner partnership model to refer mentally ill individuals to mental health services and keeps them out of jail.

While the main goal is to stop the flow of mentally ill individuals going to jail, there will still be a population of mentally ill offenders who have committed a crime serious enough which results in a jail sentence. The CJIMII policy proposes an intake process which gives the sheriff's departments enough information to triage, using the Risk-Needs-Responsivity model. The CJIMII policy also recommends requiring mental

health training for deputies so they are better equipped to identify and respond to suicide risks in a trauma-informed way.

The CJIMII policy addresses the issue of the number of mentally ill individuals in jails and the high number of suicides by proposing methods, which have worked in counties in California.

Advisor: Paul Weinstein

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## MEMORANDUM FOR CALIFORNIA GOVERNOR GAVIN NEWSOM

From: Grace Liu

Subject: Reducing the number of suicides and mentally ill individuals in jails through the Criminal Justice Interventions for Mentally Ill Individuals (CJIMII) policy

**Action Forcing Event:** The San Diego Sheriff's Department recently released a report specifying 32 recommendations to prevent suicides in local jails.<sup>1</sup>

### **Statement of the Problem**

California's jails and prisons have become the state's mental health facilities and people are dying. More than 7,000 people killed themselves in jails and prisons across the country between 2000 and 2014.<sup>2</sup> Jail suicides increased from a rate of 29 per 100,000 inmates in 2008 to 50 per 100,000 inmates in 2014.<sup>3</sup> According to the U.S. Bureau of Justice Statistics, the suicide rate per 100,000 inmates in Los Angeles County is 25.8, 37.8 in Santa Clara, 44.3 in San Bernardino, and 15.2 in Orange County with the lowest rate when comparing the largest jail systems in California.<sup>4</sup> San Diego County's rate is the highest at 74.8, nearly triple the rate of Los Angeles County and higher than the national rate of 50 per 100,000 inmates.<sup>5</sup> Researchers have estimated that one in four jail inmates have symptoms of serious psychological distress.<sup>6</sup> According to the National

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<sup>1</sup> Winkley, Lyndsay. "Report Details Recommendations to Stem Suicides in San Diego County Jails." *The San Diego Union-Tribune*, September 3, 2019. <https://www.sandiegouniontribune.com/news/public-safety/story/2019-09-03/report-details-recommendations-to-stem-suicides-in-san-diego-county-jails>

<sup>2</sup> Risberg, Eric. "Jeffrey Epstein's Death Highlights Inmate Suicide Problem." *Stateline*. September 10, 2019. <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/09/10/jeffrey-epsteins-death-highlights-inmate-suicide-problem>

<sup>3</sup> Risberg, "Jeffrey Epstein's Death"

<sup>4</sup> Schroder, Lauryn, et al. "County Sheriff's Department questions national standard when counting jail suicide rate." *The San Diego Union-Tribune*, September 20, 2019. <https://www.sandiegouniontribune.com/news/watchdog/story/2019-09-19/sheriffs-department-avoids-national-standard-for-calculating-mortality-rates>

<sup>5</sup> Schroder, "County Sheriff's Department questions"

<sup>6</sup> Risberg, "Jeffrey Epstein's Death"

Alliance on Mental Illness, despite jails and prisons being the largest mental health providers, most incarcerated people lack access to the necessary treatment.<sup>7</sup>

**Figure 1.**

### Deaths in the custody of county jails

Using the U.S. Bureau of Justice Statistics method for jail mortality rates, San Diego's rate exceeds that of other large jail systems in the state. An analysis conducted by an SDSU professor hired by the Sheriff's Department attributed the differences in suicide rates to the differences in jail populations.

#### Mortality rate

Deaths per 100,000 inmates

County	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	10-year rate
<b>San Diego</b>	<b>240.4</b>	<b>236.8</b>	<b>237.6</b>	<b>157.3</b>	<b>216.0</b>	<b>301.5</b>	<b>240.4</b>	<b>279.7</b>	<b>263.9</b>	<b>271.1</b>	<b>245.6</b>
Los Angeles	199.2	174.5	126.9	138.5	176.6	143.7	114.9	123.8	210.7	157.5	157.7
San Bernardino	186.9	106.5	92.5	152.4	185.6	181.9	77.0	165.7	144.4	182.6	148.8
Santa Clara	92.4	182.6	168.3	191.3	99.9	159.2	226.4	84.1	146.1	149.7	148.6
Orange	140.9	231.7	101.0	45.4	119.6	81.5	106.0	193.6	198.8	161.7	134.9
Sacramento	68.2	73.8	76.7	49.8	72.3	121.1	173.0	51.9	140.9	121.1	93.9

#### Suicide rate

Suicides per 100,000 inmates

County	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	10-year rate
<b>San Diego</b>	<b>80.1</b>	<b>21.5</b>	<b>108.0</b>	<b>39.3</b>	<b>90.0</b>	<b>106.4</b>	<b>120.2</b>	<b>93.2</b>	<b>17.6</b>	<b>72.3</b>	<b>74.8</b>
San Bernardino	34.0	17.8	37.0	50.8	92.8	0	57.7	0	54.2	91.3	44.3
Santa Clara	0	26.1	112.2	82.0	0	26.5	28.3	28.0	29.2	59.9	37.8
Los Angeles	41.9	24.1	26.7	16.6	53.5	28.7	6.0	12.4	12.0	30.3	25.8
Sacramento	22.7	0	0	24.9	24.1	24.2	24.7	25.9	56.4	30.3	22.8
Orange	17.6	57.9	16.8	15.1	14.9	0	17.7	0	18.1	0	15.2

Source: California Department of Justice

MICHELLE GILCHRIST U-T

Looking at San Diego County where the suicide rate is the worst compared to other large counties in California, 139 people have died in the last 10 years and 114 of the individuals who died were awaiting trial.<sup>8</sup> Autopsy reports suggest some of these deaths may have been avoidable if the individuals had received better medical care.<sup>9</sup> These deaths have cost taxpayers millions of dollars. The county paid nearly \$20 million to

<sup>7</sup> Risberg, "Jeffrey Epstein's Death"

<sup>8</sup> McDonald, Jeff, et al. "Rate of jail inmate deaths in San Diego County far exceeds other large California counties." *The San Diego Union-Tribune*. September 20, 2019.

<sup>9</sup> McDonald, "Rate of jail inmate deaths"

families of people who died or were badly injured in jail.<sup>10</sup> The number of suicides in the last 10 years was 39 individuals, a 70 percent increase from the previous decade.<sup>11</sup> Multiple inmates killed themselves even after sheriff's deputies were warned they were suicidal and several inmates died after jumping from upper floors because there was no protective fencing.<sup>12</sup> The mortality rate and suicide rate in the jails is a serious social and financial problem. The San Diego Sheriff's Department is an example of how this problem can grow if unaddressed or inadequately managed, leading to more deaths and lawsuits.

The main challenges are a lack of funding for mental health professionals, lack of training for staff and contractors, the 9-to-5 clinical hours for mental health providers, undetected or under-reported cases of inmates at risk of self-harm, and a lack of response to reports of troubled inmates.<sup>13</sup> There have been numerous cases where concerned family members call the jails to warn the deputies their loved one is suicidal or has a severe mental illness, but the inmate ends up dying because of a lack of monitoring and/or treatment.<sup>14</sup> The San Diego Sheriff's Department contracts out mental health treatment in the jails, which often leads to a lack in oversight and accountability.<sup>15</sup>

Incarcerated individuals represent a vulnerable population and evidence shows they are more likely than the general population to have a history of trauma as well as

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<sup>10</sup> McDonald, "Rate of jail inmate deaths"

<sup>11</sup> Ibid

<sup>12</sup> Ibid

<sup>13</sup> Konrad, Norbert, et al. "Preventing Suicide in Prisons, Part I: Recommendations from the International Association for Suicide Prevention Task Force on Suicide in Prisons." *Crisis: The Journal of Crisis Intervention and Suicide Prevention* 28, no. 3 (2007): 113–21. doi:10.1027/0227-5910.28.3.113.

<sup>14</sup> Davis, Kelly and Jeff McDonald. "Lapses in treatment, medical care spell horrific ends for mentally ill inmates." *The San Diego Union-Tribune*. September 23, 2019.

<sup>15</sup> Davis, "Lapses in treatment"

meet criteria for Post-Traumatic Stress Disorder (PTSD).<sup>16</sup> The study shows 56.4% of the sample was admitted for suicidal or violent behavior and 39.6% for psychosis.<sup>17</sup> The study furthers that much of the trauma and PTSD goes “unrecognized and untreated” in this population, which indicates the need for more effective treatment interventions. A national study found that between 2005 and 2006, 77% of jails surveyed had an intake screening process to identify suicide risk, but only 31% of respondents reported the process included verification of whether the arresting or transporting officer believed the person was at risk of suicide.<sup>18</sup> The study also found that 64% of the inmates who had prior or recent suicidal ideation/plans/attempts had not received mental health treatment while incarcerated.<sup>19</sup>

Since 2000, the number of mentally ill individuals in prison has almost doubled in California and the Los Angeles County Jail is “the largest mental health provider in the county,” according to the former Sheriff.<sup>20</sup> There are ten times as many mentally ill people in prison and jail in America than are in mental health treatment facilities, according to a report from the National Sheriff’s Association and Treatment Advocacy Center.<sup>21</sup> Another layer of the problem is that individuals with a mental illness tend to receive harsher sentencing than others for the same crimes.<sup>22</sup> This means an already vulnerable population with high needs are spending more time in a space which will most

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<sup>16</sup> Varendra J. Gosein, et al. “Life Stressors and Posttraumatic Stress Disorder in a Seriously Mentally Ill Jail Population.” *Journal of Forensic Sciences* Vol. 61, No. 1 (2016): 116-121.

<sup>17</sup> Ibid

<sup>18</sup> Choi, Namkee G., and et al. “Suicide Decedents in Correctional Settings: Mental Health Treatment for Suicidal Ideation, Plans, and/or Attempts.” *Journal of Correctional Health Care* 25(1). 2019: 70-83.

<sup>19</sup> Ibid

<sup>20</sup> Steinberg, Darrel, et al. “When Did Prisons Become Acceptable Mental Health Facilities?” *Stanford Law School Three Strikes Project*. February 19, 2015.

<sup>21</sup> Ibid

<sup>22</sup> Ibid



likely add to their trauma. Furthermore, when mentally ill offenders are released, there is little to no planning for sustainable treatment in the community.<sup>23</sup> This results in perpetuating the state's recidivism rate and an ongoing failure in helping one of the most vulnerable populations in society.

The problem is multi-layered, but it is clear. The prison and jail systems in the state have become mental health facilities; however, they are ill equipped to effectively treat this vulnerable population which is leading to deaths and financial stress in the form of lawsuits. When mentally ill offenders are not given the treatment they need while incarcerated and return to the community, this continues the cycle of new arrests, new victims, and more tax dollars being spent on repeatedly incarcerating these individuals.

### **History/Background**

In 1841, Dorothea Dix, a Boston schoolteacher, visited the East Cambridge Jail and became an advocate for the indigent mentally ill after seeing the conditions in jail.<sup>24</sup> She spent the rest of her life lobbying for better care for mentally ill individuals and by 1887, 110 psychiatric hospitals had been established.<sup>25</sup> In 1963, President John F. Kennedy signed the Community Mental Health Act to provide federal funding for building quality mental health treatment facilities.<sup>26</sup> While there was funding for construction, the programs were not funded well. Medicaid, created in 1965, excluded

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<sup>23</sup> Ibid

<sup>24</sup> Bloom, Joseph D. "The Incarceration Revolution: The Abandonment of the Seriously Mentally Ill to Our Jails and Prisons." *Journal of Law, Medicine & Ethics* 38, no. 4 (Winter 2010): 727 – 34.

<sup>25</sup> Donovan, Jenny. "Coming to Terms with the Mental Health Crisis in Corrections." *HR News Magazine* 85, no. 7 (July 2019): 6-7.

<http://search.ebscohost.com.proxy1.library.jhu.edu/login.aspx?direct=true&db=bsu&AN=137273572&site=ehost-live&scope=site>.

<sup>26</sup> Bloom, "The Incarceration Revolution"

coverage for people in mental institutions and the Lanterman-Petris-Short Act passed in California in 1967, which made it harder to admit someone involuntarily for treatment.<sup>27</sup> The number of mentally ill individuals in the criminal justice system had doubled by 1968.<sup>28</sup>

President Ronald Reagan ended support for federally funded community mental health centers with the Omnibus Budget Reconciliation Act in 1981.<sup>29</sup> Deinstitutionalization was meant to encourage quality treatment in small, community settings, but it resulted in no treatment at all because of the lack of proper funding.<sup>30</sup> By 2004, there were more than three times as many seriously mentally ill people in jails and prisons than in hospitals and the Great Recession led to billions more in cuts to mental health funding.<sup>31</sup>

In 1955, there were approximately 550,000 patients in mental hospitals and in 2013, there were fewer than 60,000.<sup>32</sup> The location of this population shifted from treatment facilities to jails and prisons. According to the Bureau of Justice, 64% of jail inmates in the country were dealing with mental health issues.<sup>33</sup> In 2010, the ratio of psychiatric beds to individuals who need treatment was the same as in 1850.<sup>34</sup>

California became a state in 1850. California has almost four times as many

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<sup>27</sup> Donovan, "Coming to Terms"

<sup>28</sup> Ibid

<sup>29</sup> Bloom, "The Incarceration Revolution"

<sup>30</sup> Cooper, Anastasia. "The Ongoing Correctional Chaos in Criminalizing Mental Illness: The Realignment's Effects on California Jails," *Hastings Women's Law Journal* 24, no. 2 (Summer 2013): 339 - 362

<sup>31</sup> Donovan, "Coming to Terms"

<sup>32</sup> Cooper, "The Ongoing Correctional Chaos"

<sup>33</sup> Ibid

<sup>34</sup> Donovan, "Coming to Terms"

people with mental illness in jails and prisons than in psychiatric hospitals.<sup>35</sup> The growth of mental health issues being transferred to corrections is due to many factors. The number of incarcerated individuals in California has grown due to the lack of funding for public mental health facilities coupled with sentencing schemes, which led to incarcerating drug offenders who often have co-occurring mental disorders.<sup>36</sup> The crimes committed are often the result of the individual's mental illness. Criminality, delinquency, and homelessness are often based on trauma that's been displaced and the jails and prisons are not capable of treating these issues. The inadequacy of corrections has resulted in several lawsuits and even the courts getting involved.

**Figure 2. Court cases leading up to Realignment in 2011**

1990	<i>Coleman v. Brown</i>	Suit alleged the poor mental health care provided by the California Department of Corrections and Rehabilitation (CDCR) violated the Eighth Amendment. Defendants lacked “basic, essentially common sense, components of a minimally adequate prison mental healthcare delivery system,” including screening, timely access to care, an adequate medical system, proper administration of psychotropic medication, adequate staffing, and a basic suicide prevention program. <sup>37</sup>
2001	<i>Plata v. Davis</i>	Suit alleged constitutional violations and violations of the Americans with Disabilities Act and the Rehabilitation Act. The court said CDCR had been given “every reasonable opportunity to bring [the] prison medical system up to constitutional standards, and it [was] beyond reasonable dispute that the State had failed.” <sup>38</sup>
2011	<i>Brown v. Plata</i>	The State appealed to the U.S. Supreme Court asserting the lower court had violated the Federal Prison Litigation Reform Act by intruding on the State's authority to run the prison system. <sup>39</sup>

<sup>35</sup> Cooper, “The Ongoing Correctional Chaos”

<sup>36</sup> Cooper, “The Ongoing Correctional Chaos”

<sup>37</sup> Grossman, Lois Pilant. “California's Grand Experiment.” *American Jails* 29, no. 3 (July 2015): 8.

<sup>38</sup> Ibid

<sup>39</sup> Ibid

The *Coleman v. Brown* decision led to the State appointing a Special Master to oversee CDCR's efforts to remedy the situation. However, according to the Special Master's report, "Twelve years after the determination that mental health treatment . . . was unconstitutional, the defendants still lacked clinical resources to meet the needs of some twenty-five to thirty percent of inmates identified as seriously mentally disordered."<sup>40</sup> The *Plata v. Davis* decision also led to placing CDCR's medical system in receivership.<sup>41</sup> The court called CDCR's medical care system broken and stated, "it is an uncontested fact that, on average, an inmate in one of California's prisons needlessly dies every six to seven days due to constitutional deficiencies in the CDCR's medical delivery system."<sup>42</sup> Putting CDCR's medical care system in receivership was a "drastic measure" which the court recognized, but the Court stated it was "simply at the end of the road with nowhere else to turn."<sup>43</sup>

However, things took a turn for the worse as California's prison overcrowding problem grew, rising from 202% of the prison's design capacity in June 2001 to 216% in June 2006.<sup>44</sup> In *Brown v. Plata*, the U.S. Supreme Court affirmed the lower court's order that the State reduce its prison population because overcrowding was the primarily source of the CDCR's inability to provide constitutional care.<sup>45</sup> Overcrowding has been a growing problem in California with the adoption of determinate sentencing in the 1970s

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<sup>40</sup> California Department of Corrections & Rehabilitation (CDCR). "*Coleman v. Schwarzenegger, Plata v. Schwarzenegger*," Three-Judge Court Opinion and Order, NO. CIV S-90-0520 LKK JFM P, and NO. C01-1351 THE. January 12, 2010.

<sup>41</sup> Ibid

<sup>42</sup> Grossman, "California's Grand Experiment"

<sup>43</sup> CDCR, "*Coleman v. Schwarzenegger*"

<sup>44</sup> CDCR, "Court's Order Requiring a Reduction in Prison Crowding," *CDCR Today*. June 7, 2011.

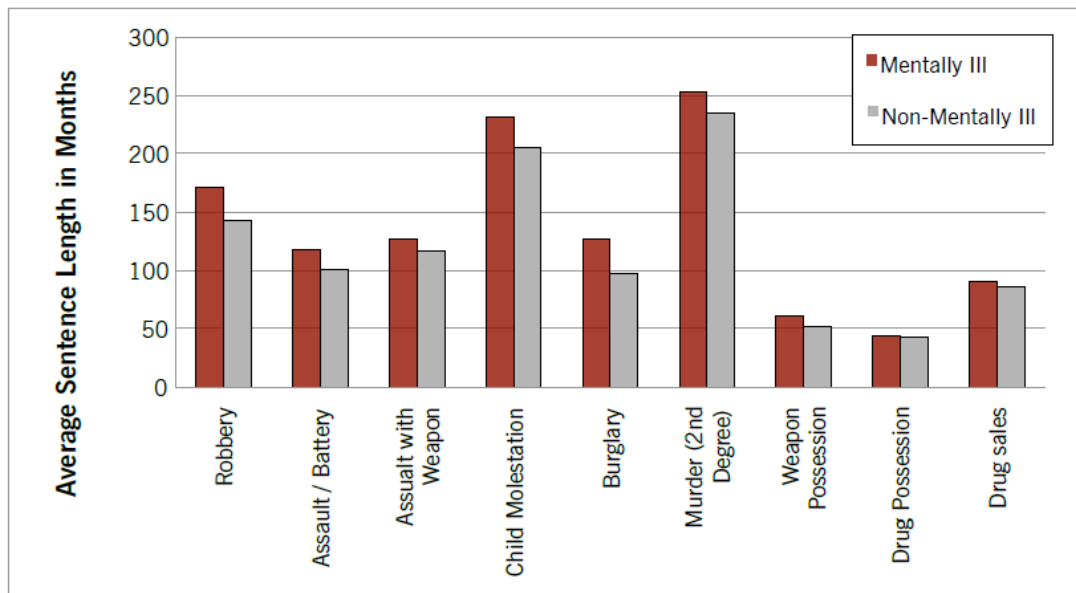
<sup>45</sup> Petersilia, Joan and Jessica Greenlick Snyder. "Looking past the hype: 10 questions everyone should ask about California's prison realignment," *California Journal of Politics Policy* 5, no. 2. (2013): 266-306.

to the Three Strikes Law, with its minimum sentences of 25 years and no good-time credits for early release.<sup>46</sup>

The number of mentally ill individuals in prison in California continues to grow. In 1971 there were 20,000 people in California prisons and by 2010 the population had increased to 162,000, of which 45 percent are estimated are to be mentally ill.<sup>47</sup> Besides not receiving adequate treatment while incarcerated, mentally ill offenders are more likely to receive longer sentences for the same crimes committed by someone without a mental illness.<sup>48</sup>

**Figure 3.**

**Mentally ill offenders receive longer sentences than non-mentally ill offenders across all felonies.**



Source: Stanford Law School, *Three Strikes Project*

<sup>46</sup> Grossman, “California’s Grand Experiment”

<sup>47</sup> Darrell Steinberg, David Mills, and Michael Romano, “When Did Prisons Become Acceptable Mental Healthcare Facilities?” *Stanford Law School Three Strikes Project*, February 19, 2015.

<sup>48</sup> Steinberg, “When Did Prisons Become”

Furthermore, mentally ill individuals are more likely to experience factors that contribute to an increased risk of committing crimes.<sup>49</sup> Their behavioral problems which lead to violations and sanctions are often associated with their mental illness.<sup>50</sup> According to one study, 90 percent of mentally ill inmates in the Los Angeles County Jail are repeat offenders and 31 percent of them had been incarcerated ten or more times.<sup>51</sup> Research shows that the recidivism rate for individuals with serious mental illness is higher than the rate among all individuals with criminal histories.<sup>52</sup>

California's recidivism rate of 64 percent is among the highest in the country, with six out of ten people returning to prison within three years of release.<sup>53</sup> This exacerbates the overcrowding issue of California's prisons. Overcrowding itself heightens the level of stress and exposure to traumatic experiences, but this is especially serious when considering the vulnerability of the mentally ill population within the prisons and jails. Overcrowding also increases the risk of inmates being underdiagnosed, misdiagnosed, or missed altogether.<sup>54</sup>

The *Plata* ruling led to the Supreme Court ordering CDCR to reduce its prison population by 25 percent, which led to the 2011 passing of Assembly 109, the Public Safety Realignment Act, better known as Realignment.<sup>55</sup> Governor Jerry Brown

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<sup>49</sup> United States Department of Justice, Bureau of Justice Statistics, "Mental Health Problems of Prison and Jail Inmates," 2006.

<sup>50</sup> Steinberg, "When Did Prisons Become"

<sup>51</sup> Torrey, E. Fuller et. al. "More Mentally Ill Persons Are in Jails and Prisons Than Hospitals: A Survey of the States." *National Sheriffs' Association*. May 2010.

<sup>52</sup> Police Executive Research Forum. *Managing the Mentally Ill in Jails: Sheriffs Are Finding Promising New Approaches*. September 2018.

<sup>53</sup> California Department of Corrections & Rehabilitation. *2012 Outcome Evaluation Report 13*. October 2012.

<sup>54</sup> Cooper, "The Ongoing Correctional Chaos"

<sup>55</sup> Petersilia, Joan. "California Prison Downsizing and Its Impact on Local Criminal Justice Systems." *Harvard Law & Policy Review* 8, no. 2 (July 2014): 327-57.

promoted the bill as a part of a larger scale budgetary realignment shifting responsibility and money from state agencies to local jurisdictions.<sup>56</sup> The bill classified an offender whose current offense was non-violent, non-serious, and non-sexual, with no prior convictions of any serious, violent, or sexual crime, as a “low-level” felon who would now serve their sentence at a local jail rather than a state prison, or split their time between jail and probation.<sup>57</sup> While most “high-level” felons or those who are mentally ill may still be sent to prison, the new legislation transferred the responsibility of incarcerating parole violators; the bill “rerouted the flow of parole violators from prisons to jails.”<sup>58</sup>

More than 175,000 people have been sentenced to county jails instead of state prisons in the last eight years.<sup>59</sup> Almost every California sheriff has seen a rise in demand for mental health services.<sup>60</sup> Jails were built for shorter terms, and many have struggled to meet the needs of individuals with chronic medical and mental health issues.<sup>61</sup> Deaths in jails increased by 26 percent after Realignment.<sup>62</sup> In Sacramento County, the jails reported 8,800 new mental health cases, which is double the number of cases they had before Realignment.<sup>63</sup> While the counties receive funding from the state for this new responsibility, in Sacramento, the funding was just enough to cover alternatives to

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<sup>56</sup> Fazzi, Steven Thomas. “A Primer on the 2011 Corrections Realignment: Why California Placed Felons Under County Control.” *McGeorge Law Review* 44, no. 2 (April 2013): 423-79.

<sup>57</sup> Fazzi, “A Primer on the 2011 Corrections Realignment”

<sup>58</sup> Fazzi, “A Primer on the 2011 Corrections Realignment”

<sup>59</sup> Vansickle, Abbie and Manuel Villa. “Who Begg to Go to Prison? California Jail Inmates,” *The Marshall Project*. April 23, 2019.

<sup>60</sup> Davis, “Lapses in treatment”

<sup>61</sup> Vansickle, “Who Begg to Go to Prison”

<sup>62</sup> Ibid

<sup>63</sup> Ibid

incarceration like Drug Court, and did not cover fixes to the jail or additional staff needed.<sup>64</sup>

Just as the authority and responsibility of housing the “low-level” offenders shifted from the state to the county, so did the court cases in the form of lawsuits costing counties millions of dollars.<sup>65</sup> One class action lawsuit was filed in 2018 on behalf of all individuals incarcerated in Sacramento County Jails and challenges the practice of confining hundreds of people alone in “total separation,” where they are in locked cells for 23.5 hours or more per day.<sup>66</sup> More than 75 percent of these individuals require mental health care, but they are placed on long waitlists.<sup>67</sup> These numbers were all part of a report published by the nonprofit Disability Rights California with the Prison Law Office. Besides the appalling situation with the use of solitary confinement in the jails, they also found the medical screening process was “wholly inadequate,” and the number of staff was low, leaving them to “operate in a state of near perpetual emergency.”<sup>68</sup>

In Los Angeles County, the Board of Supervisors recently rejected a plan to build a “jail-like mental health center,” in favor of diversion, treatment, and rehabilitation.<sup>69</sup> LA County aims to focus their attention on diversion, reentry, and keeping people with mental health and substance use disorders out of the jail by diverting them to community programs.<sup>70</sup> This follows the paradigm shift of most counties throughout the state as

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<sup>64</sup> Ibid

<sup>65</sup> Mineau, John. “The Impact of California 2011 Public Safety Realignment on Rural Jails.” *American Jails* 28, no. 1 (March 2014): 19.

<sup>66</sup> “Civil Rights Groups Challenge Unconstitutional Use of Solitary Confinement, Denial of Mental Health Care in Sacramento County Jails.” *Exceptional Parent* 49, no. 3 (March 2019): 7.

<sup>67</sup> *EP Magazine*, 2019

<sup>68</sup> Vansickle, “Who Begs to Go to Prison”

<sup>69</sup> Stiles, Matt. “‘No more jails,’ just mental health centers. Is that a realistic policy for LA County?” *Los Angeles Times*. August 26, 2019.

<sup>70</sup> Stiles, “No more jails”



county agencies who have typically worked in silos are forced to work together through the Community Corrections Partnerships (CCP), which was a requirement for counties to form to receive Realignment funding.<sup>71</sup> The CCP is supposed to bring together all the agencies involved in serving the Realignment population: District Attorney's Office, Sheriff's Department, Probation Department, Health and Human Services Agency, and community partners. However, depending on the county, there is collaboration or friction. Furthermore, within each of these agencies are unions and individual staff members who must develop and implement policies.

Mental health is a public health issue, but due to legislation and policies in the past, it has now become a criminal justice issue. The criminal justice system as it currently is is incapable of adequately meeting the needs of mentally ill individuals in the prisons and jails because of numerous factors, including overcrowding, recidivism, untrained and/or not enough staffing, and the pressures of Realignment in the local jails. While counties are receiving more inmates due to Realignment, they are also having to address the needs of the increased number of mentally ill individuals in the jails. Research shows overcrowding in jails and prisons leads to psychiatric breakdowns and increased rates of violence.<sup>72</sup> Currently, Realignment has simply shifted the population from the prison to the jail. However, counties must develop policies which focus on decreasing the number of mentally ill individuals in jails, increasing staff and training, accurately assessing at intake, and funding community mental health programs.

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<sup>71</sup> Fazzi, "A Primer on the 2011 Corrections Realignment"

<sup>72</sup> Cooper, "The Ongoing Correctional Chaos"

## **Policy Proposal**

The goals of the Criminal Justice Interventions for Mentally Ill Individuals (CJIMII) policy are:

- Reduce the number of people with mental illnesses in jails by 25% by 2025.
- Reduce the number of deaths in jails by 50% by 2025.

### *Policy Authorization Tool*

The counties, in partnership with community-based organizations, will be responsible for implementing evidence-based practices using funding from AB 109 (Realignment) to accomplish these goals. Phase one of Realignment was in the 2011 – 2012 fiscal year and the state transferred \$5.9 billion to the counties.<sup>73</sup> Thereafter, the state has continued to pay the county to incarcerate or supervise the Realignment population, but counties manage inmates at a lower cost than the state, so the state pays the lower county rates resulting in a savings of \$1.4 billion in the 2014 – 2015 fiscal year.<sup>74</sup>

### *Policy Implementation Tool*

The savings from housing and supervising inmates at the county level should be redirected to support programs and initiatives in the form of grants to support the CJIMII goals. Furthermore, the 2019 – 2020 budget includes \$75 million from the General Fund for the Judicial Council to administer a two-year grant program related to pretrial

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<sup>73</sup> Fazzi, “A Primer on the 2011 Corrections Realignment”

<sup>74</sup> Fazzi, “A Primer on the 2011 Corrections Realignment”

release.<sup>75</sup> The Judicial Council awarded funds to 16 pretrial projects in courts throughout the state; however, only one county addresses mental health.<sup>76</sup> Santa Barbara’s plan includes a mental health navigator and using a “step-down” process for defendants who are compliant.<sup>77</sup>

SB 82, the Mental Health Wellness Act of 2013, sponsored by Senator Darrell Steinberg, passed and provides funds to increase local capacity to assist mentally ill individuals in crisis.<sup>78</sup> SB 82 funds mobile crisis teams, crisis stabilization beds, and triaging for mentally ill individuals.<sup>79</sup>

### **Expand Mental Health Courts**

Counties that include a mental health component should be awarded a grant. In June 2018, Governor Jerry Brown signed a budget trailer bill which contained language for mental health diversion and a few months later, SB215 was amended to preclude some violent offenses and allow for victim restitution during the two-year period of diversion.<sup>80</sup> There are approximately 40 mental health courts in 27 counties in California.<sup>81</sup>

These courts should be expanded throughout the state with the following program elements:

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<sup>75</sup> Petek, Gabriel. “The 2019-20 Budget: Analysis of Governor’s Criminal Justice Proposals.” *Legislative Analyst’s Office*. February 2019.

<sup>76</sup> California Courts: The Judicial Branch of California. “Pretrial Reform and Operations Workgroup: Pretrial Pilot Program Recommendations to the Judicial Council.” August 9, 2019.

<sup>77</sup> California Courts, 2019

<sup>78</sup> Steinberg, “When Did Prisons Become”

<sup>79</sup> Ibid

<sup>80</sup> Senate Bill 215, An act to amend Section 1001.36 of the Penal Code, relating to diversion. September 30, 2018.

<sup>81</sup> Steinberg, “When Did Prisons Become”

- Every defendant charged with a nonviolent offense because of mental illness should be sent to mental health court. Violent offenses should be sent on a case-by-case basis after a collaborative meeting between the District Attorney's Office, Public Defender's Office/Defense Attorney, and Mental Health Practitioner.
- The County Superior Courts, District Attorney's Office, Public Defender's Office/Defense Attorneys, and the Behavioral Health Unit from the Health and Human Services Agency will comprise the Multi-Disciplinary Team.
- Depending on the size of the county and the number of mental health related cases, the county should dedicate at least one department and a Multi-Disciplinary Team should present a treatment plan for the judge to approve.
- The process should be a phased process where there are more frequent check-ins in the beginning and fewer court dates towards the end of the program as the participant reaches his/her treatment milestones.

These are cases that are already being processed through the criminal justice system and the health and human services system; therefore, it is a matter of redirecting existing funds and staff to run the program.

### **Diversion: Expand Law Enforcement – Mental Health Practitioner Partnership Model**

One of the main ways to decrease the number of mentally ill people in the jails is to divert the flow. When a police officer is called because a person needs mental health care, the officer must take that person to a psychiatric emergency room for evaluation and

they are required to stay with the person until he/she is treated, released, or discharged into custody.<sup>82</sup>

In Los Angeles County, the Mental Health Department, Sheriff's Department, and the Police Department created MET/SMART (Department Mental Health Evaluation Team/System-Wide Mental Assessment Response Team) teams and their goal is to help a person in crisis take his/her medication, connect with a doctor, and link them to services to keep that person out of a hospital or jail.<sup>83</sup> This model should be replicated throughout the state so officers can respond to more pressing emergencies and regular duty calls while the MET/SMART team addresses the needs of the person in mental health crisis. This is a person who would typically end up taking a jail bed because officers do not have the time or knowledge to be able to guide the person to treatment in the community.

Los Angeles County also created an Office of Diversion and Reentry to help keep people with mental health and substance use disorders out of jail by connecting them to community programs.<sup>84</sup>

### **Implement Triaging in the Jails**

While the main goal is to keep mentally ill people out of the jails and in community treatment, there will still be mentally ill offenders who have committed a crime serious enough which results in them going to jail. When a mentally ill person is sentenced to jail, he/she should first be assessed and triaged to ensure he/she receives the treatment he/she needs. The Risk-Needs-Responsivity (RNR) model is the template when

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<sup>82</sup> Cooper, "The Ongoing Correctional Chaos"

<sup>83</sup> Cooper, "The Ongoing Correctional Chaos"

<sup>84</sup> Stiles, "No more jails"

it comes to offender assessment and treatment. The model is a way of triaging criminogenic risks and needs to address the issues in a more efficient and effective manner. Since the early 1990s, the RNR model has served as an evidence-based strategy for recidivism reduction and cost-effectiveness.<sup>85</sup> The framework was developed from an empirical body of research showing that providing appropriate treatment services should result in lower recidivism.<sup>86</sup> In the RNR model, offenders are matched to appropriate services and supervision levels based on their static level and dynamic criminogenic needs.<sup>87</sup> For example, low-risk offenders should receive less supervision and services, while higher-risk offenders should receive more intensive supervision and services.

Offenders with mental health issues require targeted treatment and special attention when it comes to the “responsivity” aspect of the RNR model. Recent research has shown how correctional facilities which emphasize rehabilitation and treatment can facilitate readiness to change and create a safer environment inside.<sup>88</sup> Mentally ill offenders must have access to treatment and get the help they need, so they are better prepared to continue their treatment once they are released. The jails must also do a better job of connecting individuals to community-based treatment before their release.

### **Require Mental Health Training for Sheriff’s Deputies**

The 2019-20 budget increased resources for peace officer training, \$34.9 million for the Commission on Peace Officer Standards and Training (POST).<sup>89</sup> \$2.9 million of

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<sup>85</sup> Taxman, Faye S., and April Pattavina. *Simulation Strategies to Reduce Recidivism: Risk Need Responsivity Rnr*. New York: Springer, 2012.

<sup>86</sup> Ibid

<sup>87</sup> Taxman, 2012

<sup>88</sup> Levenson, Jill S., and Gwenda M. Willis. “Implementing Trauma-Informed Care in Correctional Treatment and Supervision,” *Journal of Aggression, Maltreatment & Trauma*, 28: 4 (2019): 481-501.

<sup>89</sup> Petek, “The 2019-20 Budget”

this funding should be used to require all Sheriff's deputies in every county to receive initial and annual trainings on best practices for how they should respond to inmates with mental illnesses, and especially those with suicidal ideations. The trainings should be mandated training as a part of orientation and ongoing in-service training. The trainings should include information on basic mental health principles but also policies for responding to people who have experienced trauma.<sup>90</sup> This will ensure deputies have the tools they need to address the needs of seriously mentally ill inmates who may be at risk of dying by suicide.

At the very minimum, each Sheriff's Department should create a partnership with Mental Health America to receive their Mental Health First-Aid training, an 8-hour course which teaches participants how to help someone who may be experiencing a mental health or substance use crisis.<sup>91</sup> The course will teach deputies how to assess for risk of suicide or harm, defuse crises, and enable early intervention through learning signs and symptoms.<sup>92</sup>

Another low-cost or free training option would be to partner with a local university to develop a training curriculum focusing on mental health and trauma-informed care. This could be a way for the deputies to get involved in developing the training with the university, which could lead to more buy-in. The curriculum could be tailored to address the unique needs and characteristics of each county.

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<sup>90</sup> DeHart, Dana and Aidyn Iachini. "Mental Health & Trauma among Incarcerated Persons: Development of a Training Curriculum for Correctional Officers." *American Journal of Criminal Justice*, 44, (2019): 457-473

<sup>91</sup> Mental Health America. "Mental Health First Aid for Public Safety." <https://www.mentalhealthfirstaid.org/wp-content/uploads/2018/07/Mental-Health-First-Aid-Public-Safety-One-Pager.pdf>

<sup>92</sup> Ibid.

## **Policy Analysis**

### **Mental Health Courts**

Santa Clara County estimated its mental health court saved the state and county \$20 million through reduced prison and jail sentences.<sup>93</sup> Sacramento County reported an 88 percent decrease in the cost of serving mentally ill individuals through its mental health court, compared to the cost of serving the same individuals in the traditional court system.<sup>94</sup>

The St. Louis City Jail Diversion Program is a coordinated effort between criminal justice organizations and various mental health agencies. Their goal is to divert individuals with serious mental illness and repeated histories of arrest to mental health treatment and services in lieu of incarceration.<sup>95</sup> An evaluation found those who completed the intervention benefited “significantly more” than those who dropped out, and even the participants who began therapy and received a small dose of an evidence-based intervention showed some improvement.<sup>96</sup>

A cost benefit analysis by the Pew Charitable Trust and the MacArthur Foundation found that every \$1 spent on a mental health court system resulted in \$7 in incarceration savings.<sup>97</sup> The annual prison cost for an inmate in the general population is \$51,000, while the annual community housing and outpatient treatment costs for persons

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<sup>93</sup> Steinberg, “When Did Prisons Become”

<sup>94</sup> Ibid

<sup>95</sup> Feingold, Zoe, et al. “Effectiveness of Evidence-Based Psychotherapy for Posttraumatic Distress Within a Jail Diversion Program,” *Psychological Services* 15, no. 4. (2018): 409-418

<sup>96</sup> Ibid

<sup>97</sup> Steinberg, “When Did Prisons Become”

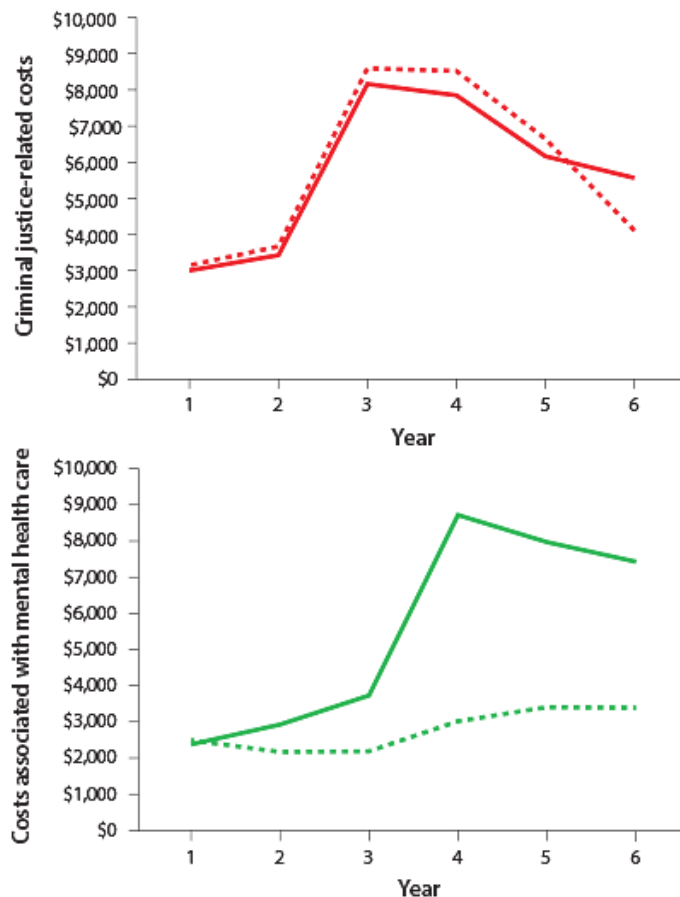


with mental illness is \$20,412.<sup>98</sup> Savings are actualized by keeping a person with mental health issues out of the jails while they receive treatment in the community. The savings could be reallocated to fund community mental health treatment programs to increase capacity and ensure sustainability of these programs.

**Figure 4.**

#### Increased Costs in MH Courts Driven by MH Care

Criminal justice-related costs for mental health court participants remain similar to those for controls (top), but costs associated with mental health care are higher in the three years following arrest (bottom).



Source: Henry Steadman, Ph.D., et al., *Psychiatric Services*, September 20, 2014

However, a six-year study conducted by Policy Research Associates in New York concluded there was “cost shifting, but there may not be cost savings.”<sup>99</sup>

The chart shows the rise in costs related to mental health care as criminal justice-related costs decline after three years. This demonstrates an increase in receiving mental health care, which is benefiting the individual. Individuals with a co-occurring substance use disorder were the

<sup>98</sup> Judicial Council of California. “Task Force for Criminal Justice Collaboration on Mental Health Issues: Final Report.” *Administrative Office of the Courts*. April 2011.

<sup>99</sup> Levin, Aaron. “Costs Higher for Mental Health Court Participants,” *Psychiatric News*, September 26, 2014. <https://psychnews.psychiatryonline.org/doi/full/10.1176/appi.pn.2014.10a11>

costliest to care for, according to the study.<sup>100</sup>

The social and health benefits of mental health courts are less debatable as individuals who participate in mental health courts recidivated at a lower rate and they were more likely to stay in treatment than those who were in a traditional court.<sup>101</sup> The State Administrative Corrections Office in Michigan evaluated 10 mental health courts and found participants re-offended at a rate 300 percent lower than non-participants.<sup>102</sup>

For the mental health court to be effective, it is critical for the court to target the right people, those who are at highest risk for committing a new crime and who have serious mental illness issues.<sup>103</sup> According to a director at the health systems and services policy at the Council of State Governments Justice Center, a nonprofit that consults on public safety issues, the real cost savings is when the costs associated with treating mental illness are diverted from jail to the community.<sup>104</sup> There is mixed evidence on the efficacy of mental health courts and whether it leads to measurable reductions in clinical symptoms, but there is evidence it is a “moderately effective intervention” in reducing recidivism, according to two meta-analyses.<sup>105</sup>

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<sup>100</sup> Ibid

<sup>101</sup> Steinberg, “When Did Prisons Become”

<sup>102</sup> Woodward, Danielle. “Mental health courts expand to treat offenders,” *Grand Rapids Business Journal*. March 12, 2014. <https://www.grbj.com/articles/79192-mental-health-courts-expand-to-treat-offenders>

<sup>103</sup> Andrews, Michelle. “Mental Health Courts Are Popular, But Are They Effective?” *NPR*. December 16, 2015. <https://www.npr.org/sections/health-shots/2015/12/16/459823010/mental-health-courts-are-popular-but-are-they-effective>

<sup>104</sup> Ibid

<sup>105</sup> Kim, KiDeuk, et al. “The Processing and Treatment of Mentally Ill Persons in the Criminal Justice System: A Scan of Practice and Background Analysis.” *The Urban Institute*. March 2015.

## **Diversion: Law Enforcement – Mental Health Practitioner Partnership Model**

While Los Angeles implemented the MET/SMART team to divert mental health cases out of jail, the Seattle Police Department created a Crisis Response Team (CRT) pilot program to implement the Crisis Intervention Team (CIT) model to improve responses to people in crisis.<sup>106</sup> An evaluation from data collected for one year was conducted to determine the value added by a mental health practitioner and the effectiveness of the program related to resolution time, repeat contacts, and referral to services.<sup>107</sup> The goal of the program was to avoid the use of jail or hospital emergency rooms by referring the individual to community based resources. The evaluation showed only 1 percent of the 3,029 cases resulted in jail time.<sup>108</sup> This type of community triaging was successful in diverting cases away from jail. This type of a collaborative program changed the “default” type of response for officers responding to mental health crisis calls because of the mental health partnership.

There are limitations to a law enforcement – mental health practitioner partnership because they can only handle one case at a time. Adding more teams would alleviate this issue, but it would be costlier to add more mental health practitioners to the team or contract with an agency to provide the service. The evaluation states even greater efficiency gains could be achieved with a more regionalized approach, so the team is not so spread out.<sup>109</sup>

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<sup>106</sup> Helfgott, Jacqueline, “A descriptive evaluation of the Seattle Police Department’s crisis response team officer/mental health professional partnership pilot program,” *International Journal of Law and Psychiatry* 44. (January – February 2016): 109-122

<sup>107</sup> Ibid

<sup>108</sup> Helfgott, “A Descriptive Evaluation”

<sup>109</sup> Ibid

## Jail Solutions: Triaging

Research shows suicides in jails occur within the first hours of arrest and detention with more than 50 percent of all suicides taking place within the first 24 hours of incarceration, and almost a third occurring within the first three hours.<sup>110</sup> Therefore, a suicide screening at booking would help the triaging process to identify who is most at risk.<sup>111</sup> Suicide checklists give the intake staff structured questions and can be administered with limited time and resources.<sup>112</sup> However, there is only limited information that can be captured in a checklist and a more comprehensive risk and needs assessment would provide more accurate information for providing appropriate treatment.<sup>113</sup>

In a clinical study, the results indicate that screening for mental illness in jail populations is necessary to identify high-risk individuals for intervention to prevent suicidal behavior.<sup>114</sup> The American Correctional Association recommends jails and prisons screen all individuals during intake to identify risk factors and determine risk of self-harm, then this information is used to inform housing and security decisions.<sup>115</sup>

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<sup>110</sup> Hayes, Lindsay M. "Developing a Written Program for Jail Suicide Prevention." *Corrections Today* 56, no. 2 (April 1994): 182.

<http://search.ebscohost.com.proxy1.library.jhu.edu/login.aspx?direct=true&db=f5h&AN=9501093019&site=ehost-live&scope=site>.

<sup>111</sup> Konrad, "Preventing Suicides in Prisons"

<sup>112</sup> Ibid

<sup>113</sup> Konrad, "Preventing Suicides in Prisons"

<sup>114</sup> Schaefer, Karen E., Christianne Esposito-Smythers, and June P. Tangney. "Suicidal Ideation in a United States Jail: Demographic and Psychiatric Correlates." *Journal of Forensic Psychiatry & Psychology* 27, no. 5 (October 2016): 698–704. doi:10.1080/14789949.2016.1193886.

<sup>115</sup> Cobb, Kimberly A. "Preventing Suicide in Correctional Facilities: The Correctional Officer's Role." *American Jails* 32, no. 1 (March 2018): 18–21.

<http://search.ebscohost.com.proxy1.library.jhu.edu/login.aspx?direct=true&db=tsh&AN=128527507&site=ehost-live&scope=site>.

However, the information is only as good as what the individual self-report. If individuals do not disclose suicide ideation at intake or display any behaviors that would lead a deputy to question their mental health status, they would fly under the radar and not be properly monitored. There is disagreement within the medical and psychiatric communities regarding which factors are most predictive of suicide in general, but research has identified several characteristics that are strongly related to suicide.<sup>116</sup>

### **Mental Health Training for Deputies**

A lawyer with Disability Rights California who studied suicides inside San Diego County jails said there is very little clinical input when considering treatment decisions for mentally ill offenders because the deputies are unaware.<sup>117</sup> With growing mental health needs in correctional settings and the limitations of resources and time for deputies to learn, one study created a partnership between a higher education institute with a corrections agency to develop a comprehensive training curriculum.

This training focused on cultivating awareness on mental health issues, trauma among incarcerated individuals, and rehearsing appropriate responses to prevent crisis and reduce risks.<sup>118</sup> The open-access online curriculum was free and provided evidence-based content on topics identified by correctional professions as important to addressing mental health needs in jails and prisons.<sup>119</sup> This type of an online and free training offers a flexible solution for correctional employees and they will have more buy-in because the curriculum focuses on topics they have identified as valuable. This training focused on

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<sup>116</sup> Hayes, “Developing a Written Program”

<sup>117</sup> Davis, “Lapses in Treatment”

<sup>118</sup> DeHart, “Mental Health and Trauma”

<sup>119</sup> Ibid

trauma and self-care and many of the correctional officers were women and predominantly African American, and had worked in corrections for more than five years.<sup>120</sup> These demographics may have made the officers more receptive to the training because they have more experience and are more open to learning about mental health and self-care issues.

The pretest to posttest results showed the officers responded positively and demonstrated increased knowledge in identifying signs of trauma and managing their own stress.<sup>121</sup> There was also classroom interaction during the trainings to encourage discussions, which the officers found to be helpful.<sup>122</sup> However, the study did not produce any results related to actual behavioral changes. There is no way to see whether the training led to changes in reported events or how the officers applied what they learned to their jobs.

The accessibility of an online training with classroom discussions makes this type of a training appealing logistically because it is a matter of finding the space and time to administer the training. Encouraging counties to partner with their local universities would ensure the trainings are created with their specific demographics in mind. If cost is an issue, the counties can look at existing trainings through the United States Department of Justice, Bureau of Justice and use the curriculums in a classroom environment to tailor the trainings to meet their needs. The main issue is ensuring the officers apply what they learned on the job. Furthermore, the environment of prison and jail itself is traumatic. Therefore, the implementation of a training focused on trauma-informed care or mental

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<sup>120</sup> Ibid

<sup>121</sup> Ibid

<sup>122</sup> Ibid

health needs may not be enough and may counteract the training officers receive to ensure safety. Officers are taught to respond authoritatively, and this replicates the dynamics of the inmates' traumatic life experiences.<sup>123</sup> This type of an environment prohibits innovations in service delivery and trauma-informed practices.

Research shows confrontational approaches create resistance and results in individuals going deeper into their defensive patterns of thinking and behaving.<sup>124</sup> Conflict resolutions skills are important to treatment and de-escalation tactics can help individuals tolerate distress.<sup>125</sup> The Charlotte-Mecklenburg Police Department (CMPD) in North Carolina made participation in Mental Health First Aid training mandatory for all the officers since 2016.<sup>126</sup> The CMPD decided to use this curriculum because it was relatively short and scalable to the entire force, but still effective in providing officers with the know-how to handle sensitive situations.<sup>127</sup> The officers said they found the training to be useful in helping identify and deescalate situations where an individual may be experiencing a mental health crisis.<sup>128</sup> A lieutenant with the department stated it is difficult to quantify the impact because officers are not likely to seek credit for when they have been successful in applying the lessons learned, but he recalled a situation where an officer calmed a person with autism who was resisting his colleagues' attempts to restrain him, and potentially avoided the situation getting much worse and dangerous.<sup>129</sup>

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<sup>123</sup> Levenson, "Implementing Trauma-Informed Care"

<sup>124</sup> Jenkins, Alan. "Invitations to Responsibility." *Australian and New Zealand Journal of Family Therapy* 11, no. 4 (December 1990): 201

<sup>125</sup> Levenson, "Implementing Trauma-Informed Care"

<sup>126</sup> Mark, "Charlotte-Mecklenburg Police Department," *Mental Health America*. March 20, 2018, <https://www.mentalhealthfirstaid.org/case-studies/charlotte-mecklenburg-police-department/>

<sup>127</sup> Ibid

<sup>128</sup> Mark, "Charlotte-Mecklenburg Police Department"

<sup>129</sup> Ibid

## **Political Analysis**

When it comes to anything involving the courts; such as, mental health court, the following stakeholders play important roles: Superior Court, District Attorney, Public Defender, Sheriff's Department, Probation Department, Police Department, and the Behavioral Health Division at the Health and Human Services Agency. There are often outside agencies contracted to work with the County in providing case management or other wrap-around services. A new law in 2018 under Governor Jerry Brown expanded the number of individuals who could be diverted to mental health treatment programs and have their charges dismissed.<sup>130</sup> Judges could order treatment, but the mental hospitals have long waiting lists. Brown's budget included \$115 over three years to provide for 850 new placements in community mental health programs.<sup>131</sup> However, this new law has not led to more diversion in many counties because of push back from the District Attorneys. In San Diego, only 20 out of 80 defendants seeking diversion since the law became effective have been sent to diversion.<sup>132</sup> The Los Angeles District Attorney's Office had statistics for the first six months of the year and showed prosecutors opposed 102 of the 307 cases, resulting in a 33 percent denial rate.<sup>133</sup> The California District Attorneys Association wants to limit the program to those charged with misdemeanors or non-serious and nonviolent felonies.<sup>134</sup>

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<sup>130</sup> Thompson, Don. "Prosecutors say mental health law should be scaled back." *VC Star*. July 29, 2019. <https://www.vcstar.com/story/news/2018/07/29/prosecutors-say-mental-health-law-should-scaled-back/847430002/>

<sup>131</sup> Ibid

<sup>132</sup> Moran, Greg. "One year after new law, few getting mental health diversion," *The San Diego Union Tribune*. July 30, 2019. <https://www.sandiegouniontribune.com/news/courts/story/2019-07-30/mental-health-diversion-law>

<sup>133</sup> Moran, "One year after new law"

<sup>134</sup> Thompson, "Prosecutors say mental health law"



The National Alliance for the Mentally Ill supports diversion and is looking forward to working with prosecutors to ensure more people are granted diversion.<sup>135</sup> Public Defenders would like to see more individuals diverted to community based treatment programs.<sup>136</sup> The Disability Rights California legislative director Curtis Child said his organization opposes any attempt to roll back the new law because mental health treatment in prisons and jails “is sorely lacking.”<sup>137</sup>

While the decisions for programs like mental health court are ultimately determined by the courts, eligibility criteria are usually negotiated between treatment providers and the district attorney. There are political considerations when a case is high-profile or there are more serious offenses.<sup>138</sup> Just as there is a big difference between the number of diversion requests and denials between San Diego County and Los Angeles County, each county will have its own District Attorney who will decide how they implement mental health court. Ultimately, the District Attorney has the decision-making power when it comes to what kinds of cases are sent to diversion, the details concerning the individual’s treatment and supervision, and how the program is run. Although mental health courts by nature are collaborative courts, the district attorneys control the spigot for referrals; therefore, each mental health court will look different based on the District Attorney’s buy-in.

District attorneys make the decisions, but they are elected officials. Therefore, interest groups like the National Alliance for the Mentally Ill and Disability Rights

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<sup>135</sup> Moran, “One year after new law”

<sup>136</sup> Thompson, “Prosecutors say mental health law”

<sup>137</sup> Ibid

<sup>138</sup> Mulvey, Edward P., and Carol A. Schubert. “Mentally Ill Individuals in Jails and Prisons.” *Crime & Justice* 46, no. 1 (January 2017): 231-77. Doi:10.1086/688461

California can use their influence to push district attorneys to expand mental health courts. The better connected district attorneys are to the community and service providers, the more they will be inclined to champion something like mental health court. The key to making expansion of mental health courts is to let the district attorneys lead the collaborative effort in each of their counties to develop a program that will work for them.

Criminal justice reform has become more mainstream in the last few years and the pendulum has swung to focus more rehabilitation than punishment. A 2018 poll by the Justice Action Network found 85 percent of respondents supported making rehabilitation the goal of the criminal justice system rather than punishment.<sup>139</sup> A 2017 poll by the John D. and Catherine T. MacArthur Foundation reported 74 percent of the respondents opposed imprisonment altogether for the mentally ill.<sup>140</sup> For a poll by the American Civil Liberties Union, the Benenson Strategy Group interviewed more than 1,000 adults across the country, 41 percent conservatives, 31 percent liberals, and 23 percent moderates.<sup>141</sup> Of this group, 91 percent agreed the U.S. criminal justice system needs reform and more than two-thirds said they would be more likely to vote for a candidate who favored reducing the prison population and spending the savings on drug treatment and mental health programming.<sup>142</sup> In 2016, the Alliance for Safety and justice released the results of the first-ever survey of crime victims' perspectives on the criminal justice system and 83

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<sup>139</sup> Clarke, Matthew. "Polls show People Favor Rehabilitation over Incarceration," *Prison Legal News*. November 6, 2018. <https://www.prisonlegalnews.org/news/2018/nov/6/polls-show-people-favor-rehabilitation-over-incarceration/>

<sup>140</sup> Ibid

<sup>141</sup> Ibid

<sup>142</sup> Ibid

percent supported more spending on mental health treatment instead of incarceration.<sup>143</sup>

The data speaks for itself. The people want criminal justice reform and rehabilitation over incarceration, and they especially want more spending on programming for mental health treatment.

Despite all the efforts to keep mentally ill individuals out of the jails, there are still people who can not be diverted to community programs and need mental health treatment in the jail. A 2015 report commissioned by Los Angeles County District Attorney Jackie Lacey stated, “Mental health diversion is not a jail reduction plan. Although a successful mental health diversion program could result in some reduced need for jail beds in years to come, there will always be a need for mental health treatment to take place within the jail.”<sup>144</sup> There must be a process to ensure the appropriate people are being sent to jail and once they are there, they must be processed in a way to ensure they get the treatment they need.

By implementing a law enforcement – mental health practitioner partnership model, the police officer and mental health clinician jointly respond to calls involving an individual who might have a mental illness, and they work together to ensure appropriate referrals are made to treatment. According to DA Lacey’s report, “These teams have been universally praised by mentally ill persons who have interacted with them and family members who have seen their loved ones treated with compassion and understanding.”<sup>145</sup> When interactions with officers can go awry in a matter of seconds, especially when it

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<sup>143</sup> Clarke, “Polls show people favor”

<sup>144</sup> Lacey, Jackie. “Mental Health Advisory Board Report: Blueprint for Change.” *Los Angeles County District Attorney’s Office*. August 4, 2015.

<sup>145</sup> Ibid

involves a person with a mental illness, this kind of a partnership plays an important role in deescalating a situation and improving public safety for all. This will also ensure a person who would better benefit from treatment is referred to the appropriate service, rather than taking up a bed in jail. The most cost-effective way to keep mentally ill individuals out of the criminal justice system is to divert them at the front end because once they are entangled in the system, it is hard to disentangle them, and many dollars are invested in the process.<sup>146</sup>

For the law enforcement – mental health practitioner partnership model to work, it takes more than training officers and assigning them to this project. The individual must be effectively and efficiently placed in community-based mental health treatment, which requires collaboration with the service providers. Depending on the county, the Health and Human Services Agency may not see the criminal justice population as their population. Or, community mental health providers may resist working with justice-involved individuals, citing increased liability.<sup>147</sup> Without having the buy-in of the Health and Human Services Agency and community mental health providers, this process would not work.

They will most likely request more funding because county government are bearing most of the responsibility for funding and providing mental health programs, including drug treatment services for low-income, uninsured individuals with serve mental illness because of the Mental Health Services Act of 2004.<sup>148</sup> Proposition 63

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<sup>146</sup> Mulvey, “Mentally Ill Individuals”

<sup>147</sup> Massaro, Jackie. *Working with People with Mental Illness in the Criminal Justice System: What Mental Health Service Providers Need to Know*. 2<sup>nd</sup> ed. Delmar, NY: Technical Assistance and Policy Analysis Center for Jail Diversion, 2004.

<sup>148</sup> Steinberg, “When Did Prisons Become”

passed in 2004 added a one percent income tax on personal income in excess of \$1 million, which expanded mental health services for children and adults with severe mental illnesses who were not covered by existing insurance programs or federal programs.<sup>149</sup> There must be more legislation like SB 42 and items on the ballot like Proposition 63 to garner support from the public to fund community mental health programs. This aligns with polling results which show the American people want to spend more resources on mental health treatment rather than incarceration.

If diversion is not appropriate, a mentally ill individual will end up in jail. Once they are in jail, triaging requires Sheriff's deputies to conduct a suicide checklist and assess for risks and needs, then refer them to appropriate housing and services. The National Commission on Correctional Health Care (NCCHC) and the American Foundation for Suicide Prevention (AFSP) are working together to develop a plan for suicide prevention in the jails.<sup>150</sup> According to the NCCHC, many preventable suicides result from poor communication among correctional, medical, and mental health staff.<sup>151</sup> Depending on the Sheriff's Department in each county, the medical and/or mental health services may be Sheriff's employees or contracted employees. This difference will impact workload and union issues. For effective communication and triaging to occur within the jails, there must be coordination between the correctional, medical, and mental health staff. Furthermore, the Sheriff sets the tone for the department, so much of the processes and communication between these units is based on the Sheriff's priorities.

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<sup>149</sup> Ibid

<sup>150</sup> Gibson, Brent. "Suicide Prevention: Everybody's Business." *American Jails* 33, no. 2 (May 2019): <http://search.ebscohost.com.proxy1.library.jhu.edu/login.aspx?direct=true&db=tsh&AN=136383234&site=ehost-live&scope=site>.

<sup>151</sup> Ibid

Therefore, it is important to get the Sheriff's buy-in first to shift procedures and attitudes within the jails.

One of the first steps in shifting the culture is knowledge. Requiring mental health training for deputies involves the Sheriff valuing this type of training as a suicide prevention tool. Research states suicide prevention training should be given to all staff and should be approximately eight hours in length, focusing on explaining why jail environments are conducive to suicidal behavior, and warning signs and symptoms.<sup>152</sup> This means the Sheriff's department must dedicate this time and pay someone either within the department or outside the department to provide the training. The policy proposal suggests working with a local university or nonprofit to provide the training for a low cost or for free. This would build community partnerships and help the Sheriff politically as well.

The mental health training requirement part of the policy could be a part of the oversight plan that will be introduced next year as a part of a broader criminal justice reform package.<sup>153</sup> A yearlong investigation by Pro Publica exposed how counties have struggled in managing their jails after the increase in number of inmates serving longer sentences after Realignment.<sup>154</sup> There must be more accountability and requiring this training is the first step to ensuring all the deputies are on the same page when it comes to interacting with someone with a mental health issue. In Fresno County, an inspector from the state corrections board cited the county for violating minimum jail standards when it

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<sup>152</sup> Hayes, "Developing a Written Program"

<sup>153</sup> Sohail, Al-Jamea, and John Walker, "Calif. Governor wants more state oversight of prisons, sheriffs," *Sacramento Bee*, November 14, 2019. <https://www.correctionsone.com/law-and-legislation/articles/calif-governor-wants-more-state-oversight-of-prisons-sheriffs-KzTSOaXxpuJUdyfZ/>

<sup>154</sup> Ibid

locked suicidal inmates in closet-sized rooms with nothing but a grate in the floor for bodily fluids and a yoga mat for sleep.<sup>155</sup>

The issue is state corrections officials do not have the authority to make county leaders change. The challenge will be working with local sheriffs on the issues of triaging and requiring mental health training because the state cannot make the county sheriffs do anything. There was recently a bill that would have allowed counties to create oversight groups with subpoena power over county sheriffs, but it was shelved this year after the California State Sheriffs' Association called the measure "unnecessary."<sup>156</sup> A lobbyist for the sheriffs said the jails are monitored enough, but Assembly member Kevin McCarty who wrote the bill, vowed to try again next year. Something must be done related to mental health because of all the lawsuits the counties are facing which is mirroring what the State experienced before Realignment. Continuing to pay for these lawsuits stemming from jail suicides is a drain for the taxpayer and the issue must be properly dealt with by addressing the mental health issues in the jails. There are many layers and moving pieces, but a simple and relatively cheap way of addressing this issue is by requiring all deputies to take the eight-hour Mental Health First Aid training.

### **Recommendation**

The two goals of the Criminal Justice Interventions for Mentally Ill Individuals policy are to reduce the number of people with mental illnesses in jails and reduce the number of deaths in jails. The proposal has four parts: mental health courts, law enforcement – mental health practitioner partnership model, triaging in jails, and mental

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<sup>155</sup> Ibid

<sup>156</sup> Ibid

health training for deputies. There are budget limitations and challenges in getting all the stakeholders on board to implement all four aspects of the policy.

To reduce the number of people with mental illnesses in jails, the flow must be managed. Mental health court and the law enforcement – mental health practitioner partnership model are both diversion programs which would keep people out of jail. The law enforcement – mental health practitioner model would have a direct impact on the jail population because people with mental illnesses would be directed to services. However, it will be challenging for all cities to implement this model because of staffing issues and costs. **If only one aspect of diversion can be pushed through, the recommendation is to focus on expanding mental health courts because it is a process that can be implemented in an existing system.** People with mental illnesses are in the criminal justice system, but how they are directed and where they are housed can be controlled by a process like mental health court. By sending the individual to treatment, this will decrease the number of people with mental illnesses in jails.

When it comes to jail solutions, the main challenge is getting the Sheriff's Departments to support a policy which forces them to be more accountable by requiring a proper suicide risk intake process and triaging, and a mental health training. They will most likely argue they currently have an intake process and suicide prevention protocol, so a new process is not necessary. While they technically do all have policies, the statistics related to suicides and mental health needs not being addressed demonstrate the current process is not working. However, this battle may not be worth fighting because it will require support from the unions if this is a workload issue and they may perceive this



new process as more work. **Therefore, the recommendation is to focus on requiring mental health training for deputies.**

By equipping the deputies with the basic tools to identify suicide risk and respond in an appropriate manner, this could result in a reduction in the number of deaths in the jails. While the mental health practitioners and doctors in the jails are valuable in providing treatment, the deputies are interacting with the inmates daily and will be able to refer the inmates to the services they need if they know what to look for. Two options were presented for training in the proposal: a partnership with a local university to develop a curriculum or completing Mental Health America's eight-hour Mental Health First-Aid training. Partnering with a local university will create a positive community collaborative and may benefit the Sheriff's Departments politically because they will be participating in creating their own training focusing on trauma-informed care and mental health care. However, this will be timely and most likely costlier. Therefore, the recommendation is to push the Mental Health First-Aid training as a requirement for Sheriff's deputies because of its shorter timeframe and accessibility as the departments can go online and request a training.

As a state, we must do better in addressing suicides in jails and the number of mentally ill individuals in jails. We cannot change the entire system, but this policy proposal provides a few solutions that can be implemented to get started in the right direction. The U.S. Supreme Court found the conditions to be "cruel and unusual" in overcrowded state prisons, which led to Realignment. However, the problem has simply moved from the state prisons to the local jails. Expanding mental health court will divert many people away from jail to services, and requiring mental health training for deputies

will give them the tools they need to deescalate situations and refer individuals to services. At the end of the day, both aspects of the policy are about connecting individuals to the help they need so we can improve community safety.

## **Curriculum Vitae**

### **GRACE LIU**

Date of Birth: March 24, 1983

Place of Birth: Anaheim, California, USA

### **WORK EXPERIENCE**

**San Diego County District Attorney's Office**, Assistant Director of Prevention and Intervention Programs, AmeriCorps\* VISTA (Volunteer in Service to America), 2006 – Present

- Provide direction, analytical and management support for the Prevention and Intervention Programs Division and its projects (e.g. Veterans Empowerment Program, Community Youth Court, Project ROOTS: Human Trafficking Prevention, Youth Advisory Board, Inter-Faith Advisory Board)
- Oversee the CARE (Community, Action, Resource, Engagement) Community Center, a satellite office of the DA's Office, which uses an evidence-based approach by providing a needs assessment and connecting individuals with services, while providing resources for community-based organizations.
- Research, collect, analyze crime and community demographic data to determine patterns, trends, and needs
- Develop and implement crime prevention and intervention strategies, policy and procedures
- Prepare and give public presentations on the organization's activities, functions, and issues
- Establish and maintain effective and diplomatic relations with staff, boards, commissions, the public, and representatives from government agencies, community-based organizations, and other agencies, representing diverse cultures and backgrounds
- Represent the District Attorney's Office on research, grant, community-based, and County-wide initiatives
- Exercise appropriate judgment in answering questions and releasing information; analyze and project consequences of decisions and/or recommendations
- Coordinate with the Director of Prevention and Intervention Programs to prepare long-term strategies to achieve strategic goals
- Supervise, train, and evaluate the work of staff in the Prevention and Intervention Programs Division

### **EDUCATION**

**Johns Hopkins University**, Baltimore, MD, December 2019

Master of Public Management Candidate

**University of Southern California**, Los Angeles, CA, May 2005

Bachelor of Arts in Broadcast Journalism, Minor in International Relations,  
Graduated Cum Laude

**City University**, London, United Kingdom, Spring 2005

Journalism Study Abroad Program

**American University**, Washington, D.C., Spring 2003

Washington Semester Program, International Environment and Development Unit

Free the Slaves, Media/Research Intern

### PERSONAL

- Fluent in Korean
- Certified Yoga Instructor and volunteer with Prison Yoga Project (2013 – Present)